

BILL ANALYSIS

C.S.H.B. 3098
By: Kuempel
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the Texas Towing and Booting Act is unclear on whether a truck-trailer combination owned or operated by a licensed automobile dealer transporting a new car to a purchaser is considered a tow truck and whether a car hauler that transports motor vehicles as cargo in certain prearranged shipping transactions or for use in mining, drilling, or construction operations is considered a tow truck. According to the parties, the Texas Department of Licensing and Regulation (TDLR), which is responsible for administering the act, does not interpret these vehicles as being tow trucks for purposes of the act. Nevertheless, as the parties note, some law enforcement officials have cited operators of these types of vehicles for failing to register the vehicles with TDLR as tow trucks. C.S.H.B. 3098 seeks to clarify this situation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3098 amends the Occupations Code to expand the definition of "tow truck," for purposes of the Texas Towing and Booting Act, to include a truck-trailer combination that is owned or operated by a dealer licensed to sell or lease a motor vehicle and used to transport new vehicles during the normal course of a documented transaction in which the dealer is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred and to include a car hauler that is used solely to transport, other than in a consent or nonconsent tow, motor vehicles as cargo in the course of a prearranged shipping transaction or for use in mining, drilling, or construction operations.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3098 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 2308.002(11), Occupations Code, is amended to read as follows:

(11) "Tow truck" means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include:

(A) a motor vehicle owned and operated by a governmental entity, including a public school district;

(B) a motor vehicle towing:

(i) a race car;

(ii) a motor vehicle for exhibition; or

(iii) an antique motor vehicle;

(C) a recreational vehicle towing another vehicle;

(D) a motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;

(E) a motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; [øø]

(F) a motor vehicle that:

(i) is owned or operated by an entity the primary business of which is the rental of motor vehicles; and

(ii) only tows vehicles rented by the entity;

(G) a motor vehicle that is owned or operated by a person licensed under Chapter 2301 and used to transport vehicles during the normal course of a transaction in which the person is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred; or

(H) a truck-tractor as defined by Section 621.001(8)(B), Transportation Code, that is used solely to transport, other than in a nonconsent tow, motor vehicles as cargo in the course of a prearranged shipping transaction or for use in mining, drilling, or construction operations.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate

HOUSE COMMITTEE SUBSTITUTE

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(E) a motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; [øø]

(F) a motor vehicle that:

(i) is owned or operated by an entity the primary business of which is the rental of motor vehicles; and

(ii) only tows vehicles rented by the entity;

(G) a truck-trailer combination that is owned or operated by a dealer licensed under Chapter 2301 and used to transport new vehicles during the normal course of a documented transaction in which the dealer is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred; or

(H) a car hauler that is used solely to transport, other than in a consent or nonconsent tow, motor vehicles as cargo in the course of a prearranged shipping transaction or for use in mining, drilling, or construction operations.

SECTION 2. Same as introduced version.

effect, this Act takes effect September 1,
2015.